

GENERAL FACT SHEET

018-40

BILL NUMBER

BRIEF TITLE

Insurance Brokerage and
Consulting Contract

APPROVAL DEADLINE

ASAP

REASON

Existing Contract Expired. This is the result of City
RFP 00-273

DETAILS

POSITIONS/RECOMMENDATIONS

| | | |
|---|--|---|
| Reason for Legislation Prior contract expired. This is the result of City Request For Proposal 00-273. | Sponsor | Bill Kostner Risk Manager |
| | Program Departments, or Groups Affected | All departments effected by insurance. |
| | Applicants/Proponents | Applicant Bill Kostner, Risk Manager City Department Personnel Dept Other |
| Discussion (Including Relationship to other Council Actions) | Opponents | Groups or Individuals None Basis of Opposition |
| | Staff Recommendations | X For Against Reason Against |
| | Board or Commission Recommendation | BY the RFP Selection Committee X For Against No Action Taken For with revisions or conditions (See Details column for conditions) |
| | CITY COUNCIL ACTIONS (For Council Use Only) | Pass Pass (As Amended) Council Sub. Without Recommendation Hold Do not Pass |

DETAILS

POLICY/PROGRAM IMPACT

| | | | |
|------------------------------|---|----------|--------------------|
| | POLICY OR PROGRAM CHANGE | X NO YES | |
| | | | |
| | | | |
| | | | |
| | OPERATIONAL IMPACT ASSESSMENT | _None_ | |
| | | | |
| | | | |
| FINANCES | | | |
| COST AND REVENUE PROJECTIONS | COST of total project: \$25,000 flat fee/year (fixed rate 3 years) | | |
| | COST of this ordinance Resolution \$25,000, already budgeted. | | |
| | RELATED annual operating Costs \$ | | |
| | INCREASE REVENUE EXPECTED/YEAR \$ | | |
| SOURCE OF FUNDS | CITY | | |
| | allocated to all depts \$25,000/year or 100% | | |
| | | \$ | % |
| | | \$ | % |
| | NON CITY | | |
| | | \$ | % |
| | \$ | % | |
| | \$ | % | |
| BENEFIT COST | | | |
| | Front Foot | | Average Assessment |
| | Square Foot | \$_NA_ | \$ |

APPLICABLE DATES:

FACT SHEET PREPARED BY: Bill Kostner, Risk Manager

REVIEW BY: Georgia Glass, Personnel Director

REFERENCE NUMBER

**INSURANCE BROKERAGE AND CONSULTING CONTRACT
BETWEEN THE CITY OF LINCOLN AND MARSH USA INC.**

This Agreement is made and entered into on this 1st day of February, 2001, by and between the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City", and Marsh USA Inc., an MMC Company, 11516 Nicholas Street, Suite 301, Omaha, NE 68154, hereinafter referred to as "Broker".

RECITALS

I.

The City of Lincoln issued an invitation for competitive sealed proposals for the provision of insurance brokerage services (Specification No. 00-273) and proposals submitted in response thereto were opened on November 29, 2000.

II.

After review of the proposals as submitted, it was determined that Broker possessed the necessary skills, experience, and competency to provide the required insurance services, and the parties now desire to enter into a formal written contract outlining the terms and conditions of the services to be provided.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties do agree as follows:

1. Designated Broker. Broker is hereby designated to act as a broker, as that term is defined pursuant to Neb. Rev. Stat. § 44-103 (Reissue 1998) on behalf of the City of Lincoln in accordance with the terms and conditions, and subject to the limitations, hereinafter set forth.

2. Administrator of Agreement. The City Risk Manager shall be the City's representative for purposes of administering this Agreement. Sheri Shonka shall be the assigned agent in charge of performance of this Agreement on behalf of the Broker. The City reserves the right to require the Broker to replace the assigned agent with another agent if, in the opinion of the City Risk Manager, the agent is not rendering, or is incapable of rendering, the quality of service and cooperation required hereunder.

3. Scope of Services. Broker agrees to undertake, perform, and complete in an expeditious, satisfactory, and professional manner the following services on behalf of the City:

(a) Develop a complete understanding of the City's areas of exposure to insurable risk and consult with the City Risk Manager regarding the development of short and long-term solutions thereto.

(b) Evaluate existing insurance contracts and claims history, and make recommendations concerning any changes, modifications, consolidations, or additions to the terms, conditions, and coverage limits needed to provide a comprehensive risk management program to protect the interests of the City.

(c) Identify programs, products, and insurers capable of meeting the insurance needs of the City and, at the direction of the City Risk Manager, prepare bid specifications for markets capable of quoting for upcoming renewals.

(d) When so authorized by the City Risk Manager through issuance of a "broker of record" letter, approach appropriate markets on behalf of the City to obtain pricing

with respect to the program adopted by the City. When available, a minimum of three competitive quotes should be obtained from reputable insurers for each type of risk.

(e) Act as an advisor to the City on specialty insurance coverages that may be outside the normal market of the Broker, and, when authorized by the City Risk Manager, negotiate for such coverages, audit policies and rates for such coverage, and provide recommendations to the City Risk Manager thereon.

(f) Provide to the City Risk Manager, for his consideration, an evaluation of the results of each solicitation in an understandable format, together with a comprehensive financial analysis and recommendations for selection of an insurer or risk management plan for each type of risk.

(g) When authorized by the City Risk Manager, negotiate on the City's behalf the details of insurance contracts with selected insurers and audit resulting policies and rates for accuracy of coverage, terms and conditions, and compliance with financial arrangements and administrative procedures acceptable to the City.

(h) Provide verification of coverage as needed by the City to satisfy lessors, contractors, and other parties from whom the City seeks services or use of equipment and/or facilities.

(i) Provide oversight of, training, and education relative to loss control, safety, claims management, and related topics in the area of risk management, as requested by the City.

(j) Provide recommendations to appropriate City officials as to potential risk-related issues arising out of present or proposed contracts to which the City is a party, as requested by the City.

(k) Provide oversight of the design and implementation of an effective safety and loss control program, as requested by the City.

(l) Prepare insurance certificates and endorsements as requested by the City or its suppliers, contractors, or vendors.

(m) Respond to questions posed by City officials regarding existing coverages, and when necessary, obtain clarification from insurers regarding coverage or claims questions.

(n) Provide to the City Risk Manager an annual stewardship report and such other written reports or claims summaries as are customarily expected from a professional insurance broker.

(o) Provide premium allocation services so that premium costs may be properly charged back to appropriate departments and agencies.

4. Licensure. Broker shall have and keep in full force and effect during the term of this contract a broker's license as required by the Insurance Producers Licensing Act (Neb. Rev. Stat. § 44-4001) and an insurance consultant's license as required by Neb. Rev. Stat. §§ 44-2606 to 44-2635 (Reissue 1998).

5. Compensation. The City agrees to pay to the Broker, as compensation for the core services set forth herein, an annual fee of Twenty-five Thousand Dollars (\$25,000)

which shall remain fixed for the initial three-year term that this contract is in effect. Payment shall be made to the Broker at the inception of each year of the contract.

Broker shall not accept any commissions from any insurers, agents, underwriters, or other parties for the placement of City insurance contracts with such parties.

See: Neb. Rev. Stat. § 44-2631 (Reissue 1998).

6. Audit. The Broker shall, at all reasonable times during the term of this contract, and for a period of one-year following its expiration or termination, permit the City's agents and auditors reasonable facilities and access for the examination and audit of its records pertaining to its performance of this contract and shall, upon request by the City, produce and exhibit all such records.

7. Non-raiding Clause. The Broker shall not engage the services of any person or persons presently in the employ of the City for work covered by this contract without the written consent of the City.

8. Equal Employment. In connection with the performance of work under this contract, Broker agrees that it shall not discriminate against any employee or applicant for employment to be employed in the performance of this contract with respect to hire, tenure, terms, conditions, or privileges of employment because of race, color, religion, sex, disability, national origin, ancestry, age, or marital status.

In the employment of persons, Broker shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code and Neb. Rev. Stat. § 48-1122 (Reissue 1998), and shall take affirmative action to ensure that applicants are employed and

that employees are treated during employment without regard to their race, color, religion, sex, disability, national origin, ancestry, age, or marital status.

9. Assignability. The Broker shall not assign any interest in this contract, delegate any duties or work required under this contract, or transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto.

10. Services to be Confidential. All services, including reports, opinions, insurance policies, and other information to be furnished by the Broker under this Agreement shall be considered confidential and shall not be divulged, in whole or in part, to any person, other than to duly authorized representatives of the City, without prior approval of the City.

11. Ownership, Publication, Reproduction and Use of Material. All reports, studies, information, data, statistics, forms and any other materials or properties produced under this contract shall be the sole and exclusive property of the City. No such materials or properties produced in whole or in part under this contract shall be subject to private use or copyright by the Broker without the express written consent of the City. The City shall have the unrestricted authority to publish, disclose, distribute, or otherwise use or copyright, in whole or in part, any such reports, studies, data, statistics, forms, or other materials or properties produced under this contract.

12. Insurance and Hold Harmless. The Broker agrees to obtain and keep in force at all times during the term of the contract insurance of the following types and with the following limits:

| <u>Insurance</u> | <u>Limits</u> |
|--|-------------------------------------|
| Commercial General Liability & Automobile Liability | \$1,000,000 (combined single limit) |
| Errors and Omissions Liability | \$1,000,000 |
| Workers' Compensation | Statutory |

Such policies shall be issued by companies authorized to do business in the State of Nebraska. Such coverage shall be evidenced by providing current certificates of insurance to the City Risk Manager.

Broker shall indemnify and hold harmless the City from and against, and shall assume full responsibility for, payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security, and income tax laws with respect to Broker or any such employees of Broker as may be engaged in the performance of this contract.

The Broker shall further indemnify and hold harmless the City, its officials, officers, and employees against any and all claims, lawsuits, judgments, costs, and expenses for any damage to goods or properties, or for personal, or bodily injury to or death of any person that may arise out of or be occasioned by Broker's breach of the terms and provisions of this contract or by any negligent act or omission of the Broker, except that the indemnity specified in this paragraph shall not apply to any liability resulting from the sole negligence of the City, its officials, officers, or employees.

13. Notice. Any notice of notices required or permitted to be given pursuant to this contract may be personally served on the other party by the party giving such notice,

or may be served by certified mail, postage prepaid, return receipt requested, to the following addresses:

William Kostner
City Risk Manager
555 South 10th Street, Ste. 201
Lincoln, NE 68508

Sheri Shonka
Marsh USA Inc.
11516 Nicholas St., Ste. 301
Omaha, NE 68154s

14. Independent Contractor. It is agreed that the City is interested only in the results obtained and that the Broker shall perform as an independent contractor. The Broker is, for all purposes arising out of this Agreement, an independent contractor, and none of its officers, agents, or employees shall be deemed to be employees of the City.

15. Amendments. The City may from time to time require changes in the scope of services of the Broker to be performed hereunder. Such changes, including any increase or decrease in the amount of Broker's compensation and changes in the term of this Agreement which are mutually agreed upon by and between the City and the Broker shall be effective when incorporated in written amendments to this contract.

16. Term and Termination. The term of this contract shall commence upon its date of execution and shall continue in effect for a period of three years from and after the date of execution unless sooner terminated as hereinafter provided. Thereafter, this contract may be renewed for up to two additional one-year terms by mutual consent of the parties hereto. Both parties retain the right to terminate this agreement upon 90 days written notice. In the event of termination, the broker will assist the City in arranging a smooth transition process. However, the broker's obligation and the obligation of their affiliates to provide services to the City of Lincoln will cease upon the effective date of termination. In the event

of a mid-contract year termination by either party, the broker's annual compensation will be deemed earned on a pro-rata basis. Any compensation paid by the City in advance for services beyond the date of termination shall be refunded by the Broker to the City within 30 days after termination.

17. Integration Clause. This Agreement shall constitute the entire contract between the parties hereto and no prior statements or understanding, whether oral or in writing, shall be used to vary the terms hereof.

18. Construction of Agreement. This Agreement shall be construed and interpreted according to the laws of the State of Nebraska.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

ATTEST:

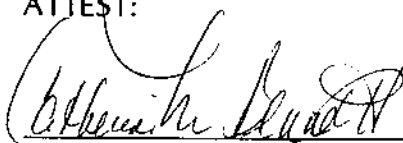
CITY OF LINCOLN, NEBRASKA
a municipal corporation

City Clerk

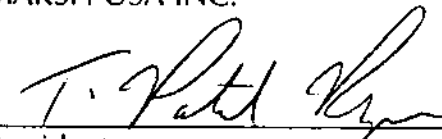
By: _____
Don Wesely, Mayor

ATTEST:

MARSH USA INC.



Secretary

By: 

President